

Message Text

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ACTION IO-14

INFO OCT-01 EUR-25 ISO-00 DLOS-06 L-03 COA-02 EB-11 OIC-04

CIAE-00 DODE-00 PM-07 H-03 INR-10 NSAE-00 NSC-10

PA-04 RSC-01 PRS-01 SPC-03 SS-20 USIA-15 ACDA-19

AEC-11 AGR-20 CG-00 COME-00 DOTE-00 FMC-04 INT-08

JUSE-00 NSF-04 OMB-01 AF-10 ARA-16 EA-11 NEA-10 DRC-01

/255 W

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R 240130Z OCT 73

FM USMISSION USUN NEWYORK

TO SECSTATE WASHDC 439

INFO AMEMBASSY LONDON

UNCLAS SECTION 1 OF 2 USUN 4151

E.O. 11652: N/A

TAGS: PBOR UN

SUBJ: LOS: CONSULTATIVE GROUP MEETING 23 OCT

1. CONSULTATIVE GROUP ON LOS ITEM MET AM 23 OCT UNDER CHAIARMANSHIP OF AMB AMERASINGHE WITH APPROXIMATELY 35 DELS REPRESENTED INCLUDING US, UK, FRANCE, PRC, JAPAN AND SOVS. AMERASINGHE ANNOUNCED HOPE THAT DISCUSSIONS WOULD BE CONCENTRATED ON QUESTION OF "GENTLEMAN'S AGREEMENT" AND ITS RELATIONSHIP TO LOS RES.

2. CANADA (BEESLEY) ON BEHAOF OF CO-SPONSORS INDICATED SENSE OF THEIR MEETING 22 OCT, WAS (WITH NO INTENT TO PREJUDGE ISSUES); (A) BLANKS IN RES MUST BE COMPLETED BEFORE RES GOES TO VOTE; (B) DATES OF INAUGURAL SESSION SHOULD BE 26 NOV-8 DEC UNLESS VERY STRONG REASONS EXIST AGAINST IT; (C) AUSTRIAN INVITATION SHOULD BE REFERRED TO IN RES; AND (D) CO-SPONSORS HAVE NO DISPOSITION TO READ ANY "GENTELMAN'S AGREEMENT" INTO RES, BUT SOME CO- UNCLASSIFIED

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SPONSORS HAVE NO OBJECTION TO AN AGREEMENT BEING PLACED

IN RECORD OF COMITE 1.

3. FOLLOWING OTHER STATEMENTS (REPORTED BELOW) AMERASINGHE ANNOUNCED, FOR BENEFIT OF NON-GROUP OF 77 MEMBERSHIP, THE VIEWS EXPRESSED IN THAT GROUP'S MEETING 22 OCT. IT WAS NOTED THESE WERE NOT DECISIONS OF GROUP OF 77, BUT EXPRESSED VIEWSEN AND ISSUES WERE BEING REFERRED TO REGIONAL GROUP MEETINGS FOR FURTHER CONSIDERATION. VIEWS EXPRESSED WERE: (A) NO REFERENCE TO CONSENSUS SHOULD BE MADE IN ANY DOCUMENT HAVING BINDING LEGAL FORCE; (B) CONF ITSELF SHOULD DECIDE ON PROCEDURES FOR DECISION MAKING; (C) THERE SHOULD BE NO DEVIATION FROM RULES GOVERNING PREVIOUS CODIFICATION CONFS; (D) NO "ARRANGEMENT" SHOULD BE PERMITTED TO OBSTRUCT OR HAMPER WORK OF CONF; (E) TYRANNY OF MAJORITY MUST BE AVOIDED; (F) GENERAL COMITE MUST NOT BE EMPOWERED WITH VETO, ITS FUNCTIONS ARE ADVISORY AND ITS REPORTS ARE RECOMMENDATIONS TO PLENARY WHICH MAY ACCEPT OR REJECT; (G) IF ANY STATEMENT SHOULD BE INCLUDED IN RECORD IT SHOULD BE LIMITED TO EFFECT THAT CONF SHOULD MAKE EVERY EFFORT TO REACH AGREEMENT ON SUBSTANCE BY CONSENSUS AND NO VOTING ON SUCH MATTERS SHALL TAKE PLACE UNTIL ALL EFFORTS ARE EXHAUSTED; AND (H) STATEMENT FROM UNCITRAL FORMULA WHICH CALLS FOR CONSENSUS AS FAR AS POSSIBLE AND THEN REFERRAL BACK TO COMITE FOR DECISION ON PROCEEDING TO VOTE.

4. THAILAND, AS CHAIRMAN OF GROUP OF 77, EMPHASIZED THE ABOVE WERE EXPRESSED VIEWS AND STATED HE SENSED FOLLOWING TRENDS IN THEIR MEETING; (A) SOME DELS ARE NOT WILLING OR PREPARED TO DISCUSS "GENTELMAN'S AGREEMENT" CONSIDERING IT A MATTER TO BE DECIDED BY CONF; (B) SOME DELS BELIEVE GENTLEMAN'S AGREEMENT SHOULD BE FIRST DISCUSSED IN REGIONAL GROUPS AND (C) SOME DELS DO NOT OPPOSE GENTLEMAN'S AGREEMENT IN PRINCIPLE BUT REQUIRE FURTHER INFO IN ITS IMPLICATIONS FOR CONF PROCEDURES.

5. UK (JACKLING) ASKED CHAIRMAN FOR HIS VIEW ON THE EXTENT TREND OF OPINION OF GROUP OF 77 WAS BECOMING INCONSISTENT WITH HIS OWN STATEMENT IN COMITE 1 ON 18 OCT WHICH READS: "BUT THE IMPORTANT THING IS, AS I SAID, THAT, IN UNCLASSIFIED

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CONNEXION WITH THE DRAFT RULES OF PROCEDURE, THERE SHOULD BE A GENTLEMAN'S AGREEMENT -- PERHAPS TO BE EXPRESSED BY THE PRESIDENT OF THE CONFERENCE, OR IT COULD EVEN BE EXPRESSED HERE AND GO INTO THE RECORES OF THE FIRST COMMITTEE AND THE GENERAL ASSEMBLY WHEN THE FIRST COMMITTEE'S REPORT IS TAKEN UP -- TO THE EFFECT THAT THERE SHOULD BE NO VOTING ON PROCEDURAL MATTERS UNLESS IT IS UNAVOIDABLE, AND THAT THERE SHOULD BE NO VOTING ON SUBSTANTIVE TEXTS

UNTIL THE CONFERENCE DECIDES THAT THE DEVELOPMENT OF ITS WORK MAKES IT APPROPRIATE. I AM PREPARED TO PUT THIS IN MORE SPECIFIC TERMS AND DESCRIBE THIS INFORMAL UNDERSTANDING AS FOLLOWS: 'IT IS UNDERSTOOD BY THE FIRST COMMITTEE IN RECOMMENDING THIS DRAFT RESOLUTION TO THE GENERAL ASSEMBLY THAT THERE SHOULD BE NO VOTING ON PROCEDURAL MATTERS AT THE CONFERENCE UNLESS IT IS UNAVOIDABLE, AND THAT THERE SHOULD BE NO VOTING ON SUBSTANTIVE TEXTS UNTIL THE CONFERENCE DECIDES THAT THE DEVELOPMENT OF ITS WORK MAKES IT APPROPRIATE. IT IS FURTHER UNDERSTOOD IN THIS CONNEXION THAT THE CONFERENCE WILL TAKE SUCH DECISIONS ONLY ON THE BASIS OF A FAVOURABLE RECOMMENDATION BY THE GENERAL COMMITTEE.'" AMERASINGHE REPLIED THAT HIS STATEMENT "WENT TOO FAR" AND FAILED TO DISTINGUISH BETWEEN MATTERS OF PROCEDURE AND SUBSTANCE. FURTHER, HE DID NOT CONSIDER THAT CONF SHOULD BE OBLIGED TO CONSULT GENERAL COMITE. IN REPLY TO FURTHER QUESTION, HE NOTED PARTICIPANTS AT CONF SHOULD CONSIDER THEMSELVES BOUND BY UNDERSTANDINGS EXPRESSED IN COMITE WHEN RES WAS NEGOTIATED, BUT THEN ADDED, "IF YOU CAN GET UNDERSTANDINGS."

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RSC-01 PRS-01 SPC-03 SS-20 USIA-15 ACDA-19 AEC-11

AGR-20 CG-00 COME-00 DOTE-00 FMC-04 INT-08 JUSE-00

NSF-04 OMB-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 DRC-01

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R 240130Z OCT 73
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6. US AMB STEVENSON STRESSED LOS CONF WOULD BE UNLIKED PRIOR CODIFICATION CONFS AND IMPORTANT ISSUE WAS NOT TEXT CONF PRODUCES BUT EXTENT TO WHICH THAT TEXT IS ACCEPTED AND RATIFIED BY STATES. HE NOTED IMPORTANCE OF DECISION TO PASS FROM CONSENSUS TO VOTING. CONTROL OF CONF IN INTERESTS OF FEW IS NOT OBJECTIVE; WHAT IS SOUGHT IS EFFECTIVE WAY TO ACHIEVE AGREEMENT WE ALL DESIRE. STEVENSON NOTED THERE WAS MISUNDERSTANDING OF DIFFERENT PROPOSALS ON PROCEDURE -- SEVEN THE CHAIRMAN'S. PROCEDURE MUST BE FOUND TO DETERMINE WHAT THE SENSE OF CONF IS IN MOST REPRESENTATIVE WAY. IN US VIEW GENERAL COMITE, WHICH WOULD INCLUDE REPRESENTATIVES OF GEOGRAPHIC GROUPS, COMITE CHAIRMAN, AND MEMBERS HAVING GREATEST STAKES IN OUTCOME OF CONF, IS MOST RESPONSIBLE MACHINERY FOR MAKING THIS DECISION. STEVENSON NOTED THAT RES CALLS FOR ONTE CONVENTION WHICH THEREBY NECESSITATES GIVE AND TAKE IN NEGOTIATIONS -- A PROCESS THAT DOES NOT LEND ITSELF TO INDIVIDUAL COMITE DECISION ON VOTING SINCE THIS IGNORES ESSENTIAL UNITY OF ISSUES.

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7. MEXICO AMB CASTANEDA NOTED THAT NUMBER OF DELS, IN GROUP IF 77 INCLUDING HIS OWN, WERE STRONGLY AGAINST PROCEDURE WHEREIN GC WOULD DECIDE ON WHEN TO VOTE; THIS WAS ESSENTIALLY A VETO. CASTANEDA BELIEVES GC WOULD CONSTANTLY BE CALLED UPON TO TAKE DECISIONS ON SPECIFICS -- CRUCIAL WORDS, PHRASES OR PARAS -- BEFORE COMITES COULD PROCEED. THIS ISNOT PROPER PROCEDURE BUT CASTANEDA BELIEVES SOME OTHER PROCEDURE MUST BE DEVISED, PERHAPS LEAVING IT TO COMITE OR, IN MAJOR ISSUES CROSSING COMITES, TO PLENARY WITH WEIGHTED MAJORITY.

8. CHILE (ZEGERS) URGED LEAVING PROCEDURES TO CONF TO DECIDE, OTHERWISE NO RES. IF GENTLEMAN'S AGREEMENT IS INCLUDED IN RECORD IT MUST BE GENERAL AND MAKE NO REFERENCE TO GC. ZEGERS SUGGESTS PROCEDURES INCLUDING TIME DELAYS IN VOTING AND POSSIBLE ROLE FOR DRAFTING COMITE IN COORDINATING ACTIVITIES BETWEEN COMITES.

9. FRANCE (JEANNEL) STATED PROCEDURES MUST BE SETTLED BEFORE RES CAN BE VOTED ON. HE NOTED GENERAL AGREEMENT THAT CONSENSUS SHOULD BE SOUGHT AS FAR AS POSSIBLE AND NOTED THIS NATURALLY WOULD BE LATE IN NEGOTIATING STAGE. TO SUGGEST VOTING ON DETAILS IS TO DESTROY SPIRIT OF COMPROMISE AND BY FRAGMENTATION RISK DESTROYING CONF.

10. SOVS PROPOSED CHANGING WORDING OF PARA ON PARTICIPATION WHICH WOULD INVITE ALL STATES. IF SYG HAS DIFFICULTY IN

DECIDING WHICH STATES HE COULD COMPILE LIST OF POSSIBILITIES
AND LET COMITE DECIDE. (NOTE: AMERASINGHE BRUSHED THIS
ASIDE AND STATED MOST PRACTICAL WAY WAS TO HAVE EACH REGIONAL
GROUP SUBMIT CANDIDATES FOR FILLING IN BLANK.) SOVS
DECLARED THEY WITHHOLD THEIR STAND ON RES UNTIL OBSCURITIES
REMOVED, PARTICULARLY FROM PARA 10. SOVS URGED CAUTION ON
ACCPETING VENEZUELAN INVITATION AND STATED CONF SHOULD BE
HELD IN NEUTRAL STATE WITH ADEQUATE FACILITIES.
(VENEZUELA REPLIED HEATEDLY DEFENDING FACILITIES AND NOTING
SOV ACCEPTANCE OF SANTIAGO LAST YEAR.)

11. EGYPT DEL SAID HIS VIEW THAT GROUP OF 77 DESIRES
CONSENSUS IN EARLY STAGES BUT IS UNANIMOUS IN REJECTING
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"SPECIAL CLUB" IDEA OF REQUIRING BROAD GENERAL
AGREEMENT BEFORE VOTING.

12. CANADA (BEESLEY) REVIEWED MERITS OF BOTH SIDES AND
STATED THAT PRACTICALLY SPEAKING QUESTION OF PROCEDURES
HAD TO BE RESOLVED EARLY SINCE IT AFFECTS ATTITUDES OF
SOME DELS TOWARD CONF. GENTLEMAN'S AGREEMENT SHOULD BE
WORKED OUT WITH RES. BEESLEY SAID HE TENDS TO FAVOR
GC IN CONSULTATIVE CAPACITY BUT NOT EMPOWERED TO DICTATE
TO PLENARY. HE SUGGESTS NO DECISIONS COULD BE TAKEN UNLESS
CONSIDERED BY GC WHICH WOULD REPORT ITS RECOMMENDATIONS.
GC COULD ACT AS "SOBER SECOND THOUGHT," PROVIDE MEANS FOR
IDENTIFYING LINKAGE OF ITEM TO OTHER CONSIDERATIONS,
AND ALLOW COORDINATED DECISIONS. "BROAD AGREEMENT" INSTEAD
OF "BROAD GENERAL AGREEMENT" IS SUGGESTED FOR DECISIONS
IN GC.

13. ASIAN AND AFRICAN GROUPS MET PM 23 OCT AND NEXT
CONSULTATIVE GROUP MEETING MAY TAKE PLACE LATE AFTERNOON
24 OCT. SCHEDULE DEPENDS ON CURRENT PROCEEDINGS IN COMITE 1.
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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 24 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973USUNN04151
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731013/aaaaajmr.tel
Line Count: 263
Locator: TEXT ON-LINE
Office: ACTION IO
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 03 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03-Dec-2001 by bryansd0>; APPROVED <07 FEB 2002 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: CONSULTATIVE GROUP MEETING 23 OCT
TAGS: PBOR, UN
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005